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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/963,820	09/26/2001	Katia Bredo	CM2436	1206

27752 7590 12/02/2003

THE PROCTER & GAMBLE COMPANY  
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EXAMINER

WINTER, GENTLE E

ART UNIT

PAPER NUMBER

1746

DATE MAILED: 12/02/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)
	09/963,820	BREDO ET AL.
	Examiner	Art Unit
	Gentle E. Winter	1746

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

1) Responsive to communication(s) filed on 07 October 2003.

2a) This action is FINAL. 2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

4) Claim(s) 15-20 is/are pending in the application.

4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5) Claim(s) \_\_\_\_\_ is/are allowed.

6) Claim(s) 15-20 is/are rejected.

7) Claim(s) \_\_\_\_\_ is/are objected to.

8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. §§ 119 and 120

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All b) Some \* c) None of:

1. Certified copies of the priority documents have been received.

2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.

3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

13) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

a) The translation of the foreign language provisional application has been received.

14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

#### Attachment(s)

1) Notice of References Cited (PTO-892) 4) Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_ .

2) Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) Notice of Informal Patent Application (PTO-152)

3) Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_ . 6) Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Response to Amendment and Remarks***

Applicant remarked:

Applicants would like to bring the Examiner's attention to page 10, line 30-31 which states the "[b]y floating" it is meant herein, that the devices (1) herein remain at least partially above the surface level of the liquid present in the vessel to be cleaned."

It is well established that applicant may define terms and that the inclusion of such a defined term in the claim will result in the definition provided in the specification as controlling.

Applicant continued:

[I]t is Applicants' position that Kanetsuma '338 does not teach or suggest a floating device including a jet nozzle located below the surface level of the liquid contained in the bathtub and spray nozzle for discharging the cleaning solution, located above the surface level of the liquid contained in the bathtub.

Applicant further indicated that since the primary reference was deficient, the 103 rejection that relies on the same is similarly deficient and concluded.

In addition, Applicants respectfully submit that Henkin '084 does not teach or suggest the claimed features.

To the extent that applicant argues that the Kanetsuma reference fails to disclose a jet nozzle located below the surface level of the water contained in the bathtub and spray nozzle for discharging the cleaning solution, located above the surface level of the water contained in the bathtub the argument is accepted, and the 102 rejection is therefore properly WITHDRAWN.

### ***Claim Rejections - 35 USC § 102--Withdrawn***

Claims 15, 18 and 19 were rejected under 35 U.S.C. 102(e) as being anticipated by Japanese Patent No. 2000 093338A to Kanetsuna. Applicants' amendments/arguments have distinguished the instant invention and the rejection is therefore withdrawn

***Claim Rejections - 35 USC § 103***

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

1. Claims 15, and 17-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Japanese Patent No. 2000 093338A to Kanetsuna and Gebrauchsmuster DE 29709738 to Helmstreit (Helmstreit).

2. Claim 15 discloses a device (disclosed as element 1 in Kanetsuna) containing a liquid, said device comprising an inlet (disclosed as a water supply port element 2), a pumping means (disclosed as element 5 in Kanetsuna) that is in fluid communication with said inlet (2). Further both the references and claim 15 disclose a jet nozzle (element 4) in fluid communication with said pumping means (5) such that the discharge of a liquid through said jet nozzle (4) and a reservoir filled with cleaning solution, (element 16) wherein said reservoir is in fluid communication with the pumping means (element 5), and at least a spray nozzle (3) for discharging said cleaning solution, wherein said spray nozzle is in fluid communication with said pumping means. Kanetsuna fails to disclose a jet nozzle below the surface of the level of the liquid contained in the bathtub. Helmstreit discloses the missing element and explicitly provides the motivation for making the claimed combination. Specifically, Helmstreit discloses a floating device for surface water filtering and cleaning is provided with self-propulsion. Preferably, propulsion is effected by thrust produced at one or more water ejection channels (6) and is controlled by an electronic regulating unit (2). The artisan would have been motivated to make

the instant combination for the reasons explicitly identified by Helmstreit, namely the removal of contaminants that are floating on the top of the water. Additionally, the artisan would have been motivated to make the combination in an effort to reduce waterborne contaminants, such as lint hair etc, from depositing on the tub walls. Further, the artisan would have been motivated to add a propulsion component to move the sprayer apparatus about the bathtub for improved cleaning efficiency.

3. As to claim 17, disclosing that there is a filter in fluid connection with the inlet and the pump. Again, the addition of a filter to a water recirculating cleaning system is disclosed throughout the prior art of record. Nonetheless, Kanetsuna discloses a water filter element (element 41b) see text at paragraph [0051] and relevant associated drawings.

4. With respect to claims 18 and 19, disclosing that the spray nozzle is connected to a rotating spray head in paragraph 6 of the translated Kanetsuna patent, the patent discloses that it is desirable to form the nozzle section 4 to allow for free rotation, thus allowing for the exposure of all corners. The rotating head (4) is disclosed in paragraph 6 as rotating around a rotational axis.

5. Claims 16 and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kanetsuna, Helmstreit, and United States Patent No. 6,039,886 to Henkin. Claim 16 further limits claim 15 by disclosing that the pumping means is "battery operated". As a preliminary matter Kanetsuna discloses a power cord and Helmstreit discloses using solar cells, which are usually accompanied by batteries, nonetheless Henkin is provided to make the teaching explicit. Henkin provides an explicit teaching of the missing element, and the motivation for making the

instant combination. Henkin describes a device equipped with an energy storage means. The electric source such is disclosed as solar cells and/or rechargeable batteries and/or a wire extending to the unitary body from an external power source (see *e.g.* abstract). The artisan would have been motivated to make the combination so that the batteries can be charged from solar cells carried by the unitary body or via electric terminals in an appropriately configured docking station. Additionally, the use of batteries obviates the need for tethering via the power cord, reduces the risk of electric shock by limiting voltage, and allows for greater portability, and ease of storage.

6. As to claim 20, further limiting claim 19 and disclosing that the device includes a self-tracking means. "Self tracking means" is read in light of the instant specification see *e.g.* page 14 line 5 *et seq.* Henkin discloses a self tracking means wherein the device is capable of floating and actively moving and comprising a unitary body having a level control subsystem for selectively moving the body to a position either proximate to the surface of the water pool or proximate to the interior surface of the containment wall, a propulsion subsystem operable to selectively propel the body in either a forward or rearward direction. The artisan would have been motivated to make the instant combination in an attempt to clean a larger surface area by moving the cleaning device.

***Conclusion***

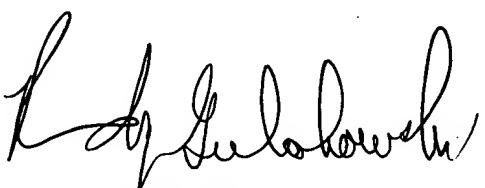
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gentle E. Winter whose telephone number is (703) 305-3403. The examiner can normally be reached on Monday-Friday 7:00-3:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Randy P. Gulakowski can be reached on (703) 308-4333. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9310 for regular communications and (703) 872-9311 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0661.

Gentle E. Winter  
Examiner  
Art Unit 1746

December 1, 2003



RANDY GULAKOWSKI  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 1700